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#14

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



International Patent Application of
RAY

Serial No. 09/486,183

Filed: February 23, 2000

For: FIBRE REINFORCED COMPOSITES

Atty. Ref.: 540-188

Group: 1733

Examiner: J. Aftergut

* * * * *

May 14, 2003

Assistant Commissioner for Patents
Washington, DC 20231

RECEIVED

30 MAY 2003

International Division

Sir:

**REQUEST FOR RECONSIDERATION OF PRIOR DECISION DENYING
PETITION TO THE COMMISSIONER UNDER 37 C.F.R. 1.181**

Applicant petitioned the Commissioner to require an examination of claims 1-13 pending in this application as originally submitted to the U.S. Patent and Trademark Office on entry of the national phase of the pending PCT application on February 23, 2003. On April 11, a decision was issued by the Office of PCT Legal Administration denying the requested relief. The decision was based upon numerous PTO errors of fact, errors of law and errors of procedure, and reconsideration is requested.

Because the requested relief is with respect to post-national phase patent office processing, reconsideration by the Office of Petitions is believed appropriate, rather than by representatives of the PCT Legal Affairs office. After numerous attempts, the undersigned reached Director Pearson who indicated that he was director of both the Petitions Branch and the PCT Legal Office of the PTO. The request that this petition be

ed

considered by the petitions branch was discounted with Mr. Pearson taking the position that all post national phase consideration should be by the PCT Legal Office (Mr. Pearson did not venture an opinion as to the point at which a national phase entry of a PCT application becomes an application for examination by the PTO Examination staff). Since it appears that this reconsideration will most probably be by the PCT Legal Examiner who made the original defective decision, the erroneous actions of the PCT Legal Office will be addressed in detail.

In as much as the PCT Legal Examiner's decision confusingly jumps repeatedly forward and backward in time, applicant encloses herewith a literal chronology of events in this case, attached as Exhibit A. It is noted that the first defining event involving the US PTO was the National Phase entry on February 23, 2000 (3 weeks after the International filing date) which included the submission of a signed declaration from the inventor and that at the time the PCT application with pending claims 1-13.

I. Unauthorized Amendments of Applicant's Claims

A. Undisputed Facts

1. The PCT Legal Examiner does not dispute that at the time of National Stage entry, i.e., February 23, 2000, PCT GB00/0286 included claims 1-13 (indeed, the PCT Legal Examiner faxed a copy of such claims to the undersigned on May 6, 2003, a copy of which is attached as Exhibit B).

2. The PCT Legal Examiner does not dispute that at the time of National Stage entry, i.e., February 23, 2000, a signed declaration was submitted to the US PTO granting an exclusive power of attorney to applicant's undersigned representative.

3. The PCT Examiner does not dispute that, subsequent to February 23, 2000, applicant's undersigned representative submitted no amendment affecting any of claims 1-13 pending in this application.

B. Legal Conclusion Drawn From Undisputed Facts

The claims pending in this application, having not been amended by the applicant's undersigned representation at any time since the entry of National Phase, remain claims 1-13 as were pending at the entry of National Phase.

Neither the PCT Office, the PCT Legal Examiner, the PTO patent examiner nor any other party had any power to amend or substitute claims in this application. The substitution of EPO claims 1-11 or any other claims for the then currently pending claims 1-13 in the application was without legal authorization.

As a result of the examination of apparently substituted claims 1-11 by the Examiner, in some sort of post National Phase entry manipulation of the application, was improper and reconsideration of the finding to the contrary by the PCT Legal Examiner is requested.

II. The Petition's Dismissal As Being Untimely Is Without Support

A. Undisputed facts

1. The National Phase entry was properly completed on February 23, 2000 as confirmed (more than 18 months later) by the Notification of Acceptance of Application mailed September 11, 2001 (a copy of which is attached as Exhibit C).

2. The Notification of Acceptance of Application confirms that "A request for immediate examination under 35 USC §371(f) was received on 23 FEB 2000 and the application will be examiner in turn."

3. The Notification of Acceptance of Application also includes the statement that "The following items have been received: . . . [x] Copy of the Annexes to the International Preliminary Examination Report (IPER) . . . [and that] The Annexes have been entered" (the IPER apparently contained substitute EPO Claims 1-11).

4. A PTO Filing Receipt dated September 21, 2001 (a copy of which is attached as Exhibit D) was mailed to the applicant confirming that claims 1-13 were still pending in the US National Phase entry application.

5. Applicant was never informed that PTO personnel had substituted claims 1-11 from the IPER for the then pending application claims 1-13 in the application or that such substitution could occur after Nation Phase entry without any authorization from applicants undersigned counsel of record.

6. The first indication to applicant's representative of the replacement of pending claims 1-13 by EPO claims 1-11 was in the Official Action (paper no. 6) mailed May 20, 2002.

7. Applicant's timely response to the Official Action (and the examination of the wrong claims) was a Request for "Clarification and Reconsideration" filed on November 20, 2002.

8. Instead of correction, the PTO mailed a Final Rejection on December 18, 2002.

9. Applicant's undersigned representative conducted numerous telephone discussions with PTO personnel between receipt of the Final Rejection and the filing of the Petition, including the Examiner's various supervisors, Group Director Mary Lee and Special Program Examiner William Krynski who advised in writing that a Petition should be filed requesting an examination of claims 1-13 (a copy of the Interview Summary Record, paper no. 10 is attached as Exhibit E).

10. The Petition was timely filed thereafter.

B. Legal Conclusion Drawn From Undisputed Facts

Applicant, after completing National Phase entry with a signed power of attorney is entitled to rely upon the PTO Filing Receipt as evidence of the claims currently pending in the application. In this case, the Filing Receipt indication that claims 1-13 were then presently pending in the completed US application was a more than sufficient basis upon which the applicant could rely.

Moreover, applicant's timely filed Request For Clarification And Reconsideration, in response to the notification that EPO claims 1-11 had been examined, was a timely response. Applicant's petition, filed in response to the PTO SPE Krynski's suggestion that a petition be filed was a proper and timely response. As a result, all of applicant's actions have been timely and in reliance upon the PTO representations made in the Filing Receipt, in the Official Actions and by the Group Director's designee, SPE Krynski.

Therefore, the finding of an untimely petition was without factual support and was improper and reconsideration of the finding to the contrary by the PCT Legal Examiner is requested.

III. The PCT Legal Examiner Misrepresents That The PTO Filing Receipt Indicates The Number of Claims For Fee Calculation Purposes Rather Than The Actual Number Of Claims In The Application As Completed

A. Undisputed Facts

1. As forwarded by the PCT Legal Examiner, originally filed claims 1-13 included independent claim 1, singly dependent claims 2 & 3 (dependent only upon the previous claim), multiply dependent claims 4 & 5 (dependent on claims 1, 2 or 3) and improper multiple dependent claims 6-13. For fee calculation purposes, these 13 claims count for 17 claims.

2. On information and belief, claims 1-11, submitted to the EPO and apparently substituted for claim 1-13 in this application, has independent claim 1, singly dependent claim 2 (on claim 1), multiply dependent claims 3 & 4 (dependent upon claims 1 or 2) and improper multiple dependent claims 5-11. For fee calculation purposes, these 11 claims count for 13 claims.

3. In support of his erroneous conclusion that the Filing Receipt indication of a total of 13 pending claims indicates that the EPO claims 1-11 have been substituted, the PCT Legal Examiner states in his decision "Thus, each of the two multiple dependent claims counts as two claims. They, are included in the claim count and thus the total number of claims present in amended claims 1-11 was correctly indicated as 13 claims."

4. The PCT Legal Examiner states in his decision that "Thus, if the original claims had been relied upon, the Official Filing Receipt would have indicated a total of 17 claims and not 13 claims as asserted by applicant. See MPEP 608.01(o)."

5. Section 608.01(o) of the MPEP (reprinted from the PTO website and a copy of which is attached as Exhibit F) is entitled "Basis for Claim Terminology in Description" and has nothing to do with the information which is represented on the PTO Filing Receipt.

6. A facsimile transmission (a copy of which is attached as Exhibit G) from Ms. Terry Dey from the PTO Office of Patent Legal Administration on behalf of the PTO Office of Initial Patent Examination (OIPE) is a form that OIPE uses to respond to Filing Receipt inquiries. Ms. Dye confirmed that the Patent Office OIPE position is that, as explained in the first box, "[t]he total number of claims appearing on the Filing Receipt does not include multiple dependent claims."

B. Legal Conclusion Drawn From Undisputed Facts

The information presented in the box labeled "tot claims" on the US PTO Filing Receipt, represents the actual number of claims then pending in the US PTO. Applicant acted reasonably upon reviewing the present Filing Receipt and confirming that claims 1-13 were pending and was entitled to rely upon the PTO representation.

The PCT Legal Examiner has provided no factual support for his contention that "tot claims" reflects the number of claims for claim calculation purposes. Ms. Dye, speaking on behalf of the OIPE (the PTO organization that issues the Filing Receipt) confirms in writing just the opposite, i.e., that "The total number of claims appearing on the Filing Receipt does not include multiple dependent claims" (emphasis added). Thus the indication that there were 13 total claims (as stated on the Filing Receipt) indicates

that there were 13 numbered claims and not 11 numbered claims which count as 13 for fee calculation purposes (as contended by the PCT Legal Examiner).

As a result, the PCT Legal Examiner is either unaware of what the PTO Filing Receipt indicates or, if he is aware, has misrepresented this fact in order to support his theory that the Filing Receipt does not provide evidence, upon which the applicant may rely, that the PTO had claims 1-13 of record in this application when the filing receipt was mailed.

Therefore, the finding that the Filing Receipt statement that there were 13 claims pending in the above application is a confirmation of the actual number of claims then pending. Reconsideration of the finding to the contrary by the PCT Legal Examiner is requested.

IV. The PCT Legal Examiner Provides No Statutory Citation, No 37 C.F.R. Citation And No Manual of Patent Examining Procedure Citation In Support Of His Contention That There Is An Obligation On The Part Of A National Phase Entrant To Notify The PTO That Papers Filed In The PCT Application After Completion Of National Phase Entry Are To Be Ignored

A. Undisputed Facts

1. The PCT Legal Examiner correctly states that "Applicant did not file any papers indicating that the annexes to the IPER should not have been entered"

2. The PCT Legal Examiner has cited no authority suggesting that there is any obligation for an applicant to notify the US PTO regarding entry or non-entry of PCT information.

3. National Phase entry was completed, including submission of the power of attorney to the undersigned, on February 23, 2000 and included claims 1-13.

4. The Filing Receipt confirms that, at least as of its issuance, claims 1-13 were pending in the application.

5. Another party amended the still pending PCT application to include EPO style claims 1-11.

6. Upon information and belief, those EPO claims 1-11 were transmitted to the US PTO and were apparently substituted for the pending claim 1-13.

7. At no time was Applicant's undersigned counsel of record informed that claims 1-11 were going to be substituted for the originally submitted claims 1-13 and certainly gave no permission to amend or enter any such substitute claims.

B. Legal Conclusion Drawn From Undisputed Facts

The PCT Legal Examiner's statement that Applicant filed no paper is correct. However, there is no rule, statute or PTO requirement for an applicant to file a paper requesting the PTO to not enter the EPO claims 1-11.

The PCT Legal Examiner has cited no obligation on the part of an applicant to file any paper in order to prevent unauthorized amendments to a completed US application. Moreover, there is no reason why an applicant would believe that any PTO official or clerical staff would, without any authorization by the attorney of record, substitute claims in a previously completed and now pending application.

After completion, which the PTO PCT Office admits occurred on February 23, 2000, the only party recognized to act on behalf of the applicant is applicant's

undersigned representative. Since no claim substitution was requested or authorized by applicant's counsel of record after completion of the national phase entry, there was not reason to suspect that anyone would attempt, let alone be successful, in substituting EPO claims 1-11 for the pending US National Phase entry claims 1-13.

To the extent the PCT Legal Examiner intended his statement to suggest that there was an implied obligation on the part of the applicant's attorney (to request non-entry of EPO claims in the previously completed National Phase application), there is no support for an such obligation nor is any support proffered by the PCT Legal Examiner. It is possible that the statement may have been made in an attempt to obfuscate the improper and illegal actions of parties substituting claims in this completed US application.

Therefore, to the extent that the PCT Legal Examiner has found there to be a duty on the part of the applicant to instruct the PTO to not enter amendments which have not been submitted by the counsel of record, reconsideration of the finding is requested.

V. The PCT Legal Examiner Misapprehends and Misapplies 35 U.S.C. §371(d)

A. Undisputed Facts

1. The PCT Legal Examiner states in his decision "[a]mendments submitted during the international stage of an international application are considered to be a part of the national stage application unless considered cancelled."

2. The PCT Legal Examiner provides as the sole support for the above statement a citation to 35 USC §371(d) quoting "[t]he requirements of subsection (c)(3) of this section shall be complied with by the date of the commencement of the national stage,

and failure to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty."

3. From this citation, the PCT Legal Examiner appears to concludes that "the amendments made during the international stage are considered to be a part of the national stage application, in the absence of instructions by the applicant."

B. Legal Conclusion Drawn From Undisputed Facts

Again there is no support for the Examiner's contention. In fact, the PCT Legal Examiner's conclusion is the direct opposite of what the statute states is the law under the PCT treaty.

The plain language of the statute §371(d) cited by the Examiner states that the applicant's failure to comply with the requirements of section 371(c)(3) of the statute by the date of commencement of national phase (here on February 23, 2000), will result in the cancellation of the amendments to the claims in the international application. As a result, if the §371(c)(3) requirements were not complied with by February 23, 2000, any amendments to the claims would be cancelled.

The §371(c)(3) requirement is that the applicant must, prior to commencement of national phase, file in the US PTO "amendments, if any, to the claims in the international application . . . unless such amendments have been communicated to the [PTO]" On the **date of completion of national phase entry**, February 23, 2000, **no amendments were communicated to the US PTO, either by the applicant or by WIPO** (since the substitute claims were not even submitted to WIPO until February 7, 2001). Thus the requirement of §371(c)(3) was not complied with by the applicant or WIPO and there is

no statutory support or basis for a post-completion submission to be entered in the US application, without submission by counsel of record.

The "failure [of the applicant] to do so shall be regarded as a cancellation of the amendments to the claims in the international application made under article 19 of the treaty." Thus, the fact that applicant did not comply with the §371(c)(3) requirement, under the plain meaning of the statutory language cited by the PCT Legal Examiner, mandates that the PTO should not have substituted the EPO claims 1-11 but rather, in accordance with the statute, have cancelled the EPO claims.

The Examiner's citation of a statute as support for his position when the clear language of the statute is the direct opposite is disingenuous at best. Therefore, to the extent that the PCT Legal Examiner has found there to be any statutory support for post-national phase completion entry of amendments, not submitted by the counsel of record, reconsideration of the finding is requested.

Summary

By the above undisputed facts and citations, supported by the attached Exhibits, it is clear that there is no statutory, evidentiary or PTO rule support whatsoever for the unauthorized and illegal substitution, **after completion of national phase entry**, of EPO claims 1-11, presumably by the US PTO PCT Office, for the then pending claims 1-13 (as confirmed by the Notice of Acceptance and the Filing Receipt).

As noted above, such action would appear to be directly contrary to the statutory requirement of §371(d) as cited by the PCT Legal Examiner. The denial decision by the

PCT Legal Examiner on applicant's original petition is not supported by any facts, or citations of statute and therefore should have been granted. The apparent attempts to misrepresent or misconstrue the facts, misconstrue the timing of events and/or the circumstances of the communications between applicant and the US PTO, and the purportedly applicable statute appear to be feeble attempts to justify what may have been a simple clerical error on the part of the Office of Patent Cooperation Treaty, of the PTO.

Clearly, as noted in the opening paragraph, the consideration of the original petition by the PCT Legal Examiner in the Office of Patent Cooperation Treaty of the PTO, is an apparent conflict of interest and the requirement that any request for reconsideration of its decision also be sent to that same office reinforces the appearance of such conflict.

Accordingly, reconsideration of the original decision is requested by the Petitions Branch rather than the Office of PCT, but if denied, reconsideration by the Office of PCT is requested. In view of the fact that claims 1-13 have been properly pending in the above application since completion on February 23, 2000 as confirm in the PTO Filing Receipt, an initial examination of those claims is appropriate and is requested.

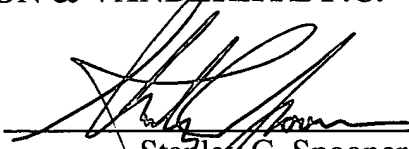
Applicant also notes that the time limit on responding to the Final Rejection of claims 1-11 continues to run and requests that it be suspended pending reconsideration of the pending petition and review by the final authority, if necessary. Prompt notice to that effect is respectfully requested.

GRAY
Serial No. 09/486,183

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


Stanley C. Spooner
Reg. No. 27,393

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Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

Enclosures: Exhibits A-G, as noted

Chronology in 540-188

02/08/99 GB 9902584.3 is filed

01/31/00 Declaration signed by inventor

02/02/00 PCT/GB00/0286 filed (claims 1-13 with multiple dependencies)

02/23/00 US Nat'l Phase filed with signed declaration and completed with express request to begin examination procedures

07/13/00 Applicant files a status Request

08/17/00 PCT published by WIPO.

01/26/01 Erroneous "Notice of Missing Requirements" mailed from PTO

02/07/01 Response to Notice of Missing Requirements pointing out that declaration had been filed on 2/23/00.

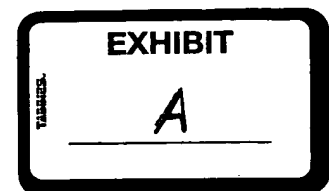
02/07/01 British Agent amended the PCT to recite 11 claims with multiple dependencies.

09/11/01 PTO Notification of Acceptance of application with 2/23/00 as 102(e) date and confirming "A request for immediate examination . . . was received on 23 Feb. 2000."

09/21/01 Filing Receipt mailed from PTO confirming 13 claims with 1 independent (claims 1-5 acceptable, but claims 6-13 are improper multiple dependent claims).

05/20/02 First Action examining only claims 1-11, rejecting claims 1-4 and holding claims 5-13 as improper.

11/20/02 Telecon with Examiner and file Request for Clarification and Reconsideration – pointed out that there were claims 1-13 in the application as confirmed by Filing Receipt.



12/18/02 Final Rejection Mailed re claim 1-11.

01/02/03 Calls and referrals to various PTO supervisors
culminating in telecon with Dir. Mary Lee

01/08/03 Call from Special Programs Examiner William Krynski
and his suggestion that Petition was needed to correct matter.

02/26/03 Rule 181 petition to commissioner.

04/11/03 Petition denied by PCT Legal branch rather than
Petitions branch, even though PTO confirms National Phase entry was
complete as of 2/23/00.

04/21/03 Telecon with Leonard Smith, PCT Legal – He asserts
that the 13 claims recited in the Filing Receipt reflect the 11 claims
examined (two of which are multiple dependent and count for two claims).
He agreed to fax a copy of the 13 claims he contends were in the application
prior to amendment. We have copy of the 11 claims (from client) which
were the result of amendment of the PCT application on 02/07/01 (over a
year after the PTO confirms our filing date and 102(e) date).

04/22/03 Review Smith's faxed claims – They appear to be the
published PCT claims (published on August 17, 2000).

04/22/03 Call to Dir. Lee which was promptly returned.

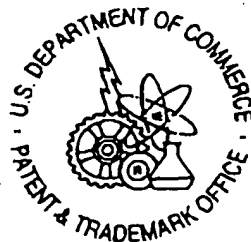
04/23/03 Return Dir. Lee's call and raise issues re claim
calculation for filing receipt, amendment of application claims without
permission of responsible attorney, propriety of §371(d) and action on
petition by PCT Legal.

04/28/03 Telecon with SPE William Krynski who indicated that
there was no way to remove to petitions branch and that PCT Legal would
handle any reconsideration.

04/30/03 Ms. Terry Dyer or Dye confirms that OIPE issues filing
receipt with actual number of numbered claims presented (not with effective
number for claim calculation purposes). Agrees to fax over copy of PTO
form which states this fact.

05/02/03 Call and leave message for Charles Pearson, head of PCT
Legal and Petitions Branch.

United States Department of Commerce
Patent & Trademark Office
PCT Legal Office
Washington, D.C. 20231



FACSIMILE TRANSMISSION COVER SHEET

DATE: 22 Apr 2003

TO: STANLEY SPONER

TELEPHONE: _____

FAX NO.: 703 816-4100

FROM: LEONARD SMITH

TELEPHONE: 703 308-6444

FAX NO.: (703) 308-6459

MESSAGE:

COPY OF CLAIMS 1-13 PCT/GB00/00288

NUMBER OF PAGES INCLUDING THIS PAGE:

3

NIXON & VANDERHIE PC
2003 APR 22 AM 8:40

EXHIBIT

B

Claims

1. A method of producing a fibre reinforced composite by pultrusion having variable strength characteristics along its length including the steps of drawing through a pultrusion die a series of reinforcing fibres to form a pultruded fibre composite product characterised by incorporating in the reinforcing fibres prior to the pultrusion step additional fibres in order to vary the strength characteristics of the final product substantially without altering the cross-sectional area thereof, a plastics matrix material being applied around the fibres and allowed to solidify to form the finished composite.
2. A method according to claim 1 in which the additional fibres have a characteristic different from that of the said reinforcing fibres.
3. A method according to claim 2 in which the said characteristic is selected from the group fibre tenacity and fibre modulus.
4. A method according to claim 1, 2 or 3 in which the additional fibres are spliced between discrete lengths of the reinforcing fibres.
5. A method according to claim 1, 2 or 3 in which the additional fibres are interlaced amongst continuous said reinforcing fibres.
6. A method according to any of claims 1 to 5 in which the plastics matrix material is applied to the fibres, within the die.
7. A method according to any of claims 1 to 5 in which the fibres are pre-impregnated with a plastics matrix material before being drawn through the die.
8. A method according to any preceding claim in which the fibres are in the form of a woven web.

WO 00/47397

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PCT/GB00/00286

9. A method according to any one of claims 1 - 7 in which the fibres are in the form of a non-woven web.
10. A composite structural member produced according to the method of any preceding claim.
11. A composite structural member according to claim 10 comprising an aircraft skin stringer.
12. An aircraft aerofoil incorporating a composite structural member according to claim 10 or 11.
13. An aircraft containing a composite produced according to the method of any of claims 1 to 9.

540-188



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents, Box PCT
United States Patent and Trademark Office
Washington, D.C. 20231
www.uspto.gov

| | | |
|-------------------------------|-----------------------|------------------|
| U.S. APPLICATION NO. | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
| 09/486183 | GRAY | 540-188 |
| INTERNATIONAL APPLICATION NO. | | |

NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 22201

PCT/GB00/00286

| | |
|------------------|---------------|
| I.A. FILING DATE | PRIORITY DATE |
| 02 FEB 00 | 08 FEB 99 |

DATE MAILED:

11 SEP 2001

**NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371
AND 37 CFR 1.494 OR 1.495**

1. The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as ☒ a Designated Office (37 CFR 1.494), ☐ an Elected Office (37 CFR 1.495), has determined that the above-identified international application has met the requirements of 35 U.S.C. 371, and is **ACCEPTED** for national patentability examination in the United States Patent and Trademark Office.

2. The United States Application Number assigned to the application is shown above and the relevant dates are:

| | |
|---|----------------------------|
| 23 FEB 2000 | 23 FEB 2000 |
| DATE OF RECEIPT OF | DATE OF RECEIPT OF ALL |
| 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS | 35 U.S.C. 371 REQUIREMENTS |

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE "FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE.** The filing date of the above-identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363). Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

3. ☒ A request for immediate examination under 35 U.S.C. 371(f) was received on 23 FEB 2000 and the application will be examined in turn.

4. The following items have been received:

- ☒ U.S. Basic National Fee.
- ☒ Copy of the international application.
- ☒ Translation of the international application into English.
- ☒ Oath or Declaration of inventors(s).
- ☐ Copy of Article 19 amendments. ☐ Translation of Article 19 amendments into English.
The Article 19 amendments ☐ have ☐ not been entered.
- ☒ The International Preliminary Examination Report in English and its Annexes, if any.
- ☒ Copy of the Annexes to the International Preliminary Examination Report (IPER).
☒ Translation of Annexes to the IPER into English.
The Annexes ☒ have ☐ not been entered.
- ☐ Preliminary amendment(s) filed _____ and _____.
- ☐ Information Disclosure Statement(s) filed _____ and _____.
- ☐ Assignment document.
- ☒ Power of Attorney and/or Change of Address.
- ☐ Substitute specification filed _____.
- ☐ Indication of Small Entity Status.
- ☒ Priority Document.
- ☒ Copy of the International Search Report ☒ and copies of the references cited therein.
- ☐ Other:

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5).

Paulette Kidwell, Paralegal

Telephone: 703-305-3656

FORM PCT/DO/EO/903 (March 2001)

EXHIBIT

C



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING DATE | GRP ART UNIT | FIL FEE REC'D | APTY. DOCKET NO. | DRAWINGS | TOT CLAIMS | IND CLAIMS |
|--------------------|-------------|--------------|---------------|------------------|----------|------------|------------|
| 09/486,183 | 02/23/2000 | 1772 | 1100 | 540-188 | 2 | 13 | 1 |

CONFIRMATION NO. 3135

FILING RECEIPT



OC000000006590476

Nixon & Vanderhye
1100 North Glebe Road 8th Floor
Arlington, VA 22201-4714

Date Mailed: 09/21/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Ian L Gray, Bristol, UNITED KINGDOM;

Domestic Priority data as claimed by applicant

THIS APPLICATION IS A 371 OF PCT/GB00/00286 02/02/2000

Foreign Applications

UNITED KINGDOM 9902584.3 02/08/1999

Projected Publication Date: N/A

Non-Publication Request: No

Early Publication Request: No

Title

Fibre reinforced composites and method of making same

Preliminary Class

428

EXHIBIT

D

540-188



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/486,183 | 02/23/2000 | Ian L Gray | 540-188 | 3135 |

7590 02/07/2003

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EXAMINER

AFTERGUT, JEFF H

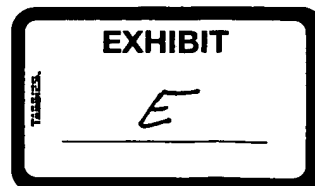
| ART UNIT | PAPER NUMBER |
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1733

DATE MAILED: 02/07/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.



Interview Summary

Application No.

09/486,183

Applicant(s)

GRAY, IAN L

Examiner

William A Krynski

Art Unit

1700

All participants (applicant, applicant's representative, PTO personnel):

(1) William A Krynski.

(3) _____

(2) Stanley Spooner.

(4) _____

Date of Interview: 08 January 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 1-11.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

i) ☒ It is not necessary for applicant to provide a separate record of the substance of the interview(if box is checked).

Unless the paragraph above has been checked, THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

WILLIAM KRYNSKI
SPECIAL PROGRAM EXAMINER
TECHNOLOGY CENTER 1700

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case unless both applicant and examiner agree that the examiner will record same. Where the examiner agrees to record the substance of the interview, or when it is adequately recorded on the Form or in an attachment to the Form, the examiner should check the appropriate box at the bottom of the Form which informs the applicant that the submission of a separate record of the substance of the interview as a supplement to the Form is not required.

It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Discussed why claims 1-11 were examined ~~even though the~~ originally filed PCT had claims 1-13. It was noted that prior to the written opinion in the PCT the applicant submitted an amendment to the claims changing the claims from 1-13 to 1-11. The instructions in the national stage application did not specify that the amendment was made nor that it was applicant's intent to consider the claims as originally filed with the application as the claims for examination. It was recommended to applicant's rep. by the special program examiner that applicant file a petition for consideration of applicant's request for a new first action based on claims 1-13 not claims 1-11.

¶ 7.43 *Objection to Claims, Allowable Subject Matter*

Claim [1] objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

608.01(o) Basis for Claim Terminology in Description

The meaning of every term used in any of the claims should be apparent from the descriptive portion of the specification with clear disclosure as to its import; and in mechanical cases, it should be identified in the descriptive portion of the specification by reference to the drawing, designating the part or parts therein to which the term applies. A term used in the claims may be given a special meaning in the description. No term may be given a meaning repugnant to the usual meaning of the term.

Usually the terminology of the original claims follows the nomenclature of the specification, but sometimes in amending the claims or in adding new claims, new terms are introduced that do not appear in the specification. The use of a confusing variety of terms for the same thing should not be permitted.

New claims and amendments to the claims already in the application should be scrutinized not only for new matter but also for new terminology. While an applicant is not limited to the nomenclature used in the application as filed, he or she should make appropriate amendment of the specification whenever this nomenclature is departed from by amendment of the claims so as to have clear support or antecedent basis in the specification for the new terms appearing in the claims. This is necessary in order to insure certainty in construing the claims in the light of the specification, *Ex parte Kotler*, 1901 C.D. 62, 95 O.G. 2684 (Comm'r Pat. 1901). See 37 CFR 1.75, MPEP § 608.01(i) and § 1302.01.

The specification should be objected to if it does not provide proper antecedent basis for the claims by using form paragraph 7.44.

¶ 7.44 *Claimed Subject Matter Not in Specification*

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: [1]

608.01(p) Completeness

Newly filed applications obviously failing to disclose an invention with the clarity required are discussed in MPEP § 702.01.

A disclosure in an application, to be complete, must contain such description and details as to enable any person skilled in the art or science to which the invention pertains to make and use the invention as of its filing date. *In re Glass*, 492 F.2d 1228, 181 USPQ 31 (CCPA 1974).

While the prior art setting may be mentioned in general terms, the essential novelty, the essence of the invention, must be described in such details, including proportions and techniques, where necessary, as to enable those persons skilled in the art to make and utilize the invention.

Specific operative embodiments or examples of the invention must be set forth. Examples and description should be of sufficient scope as to justify the scope of the claims. *Markush* claims must be provided with support in the disclosure for each member of the *Markush* group. Where the constitution and formula of a chemical compound is stated only as a probability or speculation, the disclosure is not sufficient to support claims identifying the compound by such composition or formula.

A complete disclosure should include a statement of utility. This usually presents no problem in mechanical cases. In chemical cases, varying degrees of specificity are required.

A disclosure involving a new chemical compound or composition must teach persons skilled in the art how to make the compound or composition. Incomplete teachings may not be completed by reference to subsequently filed applications.

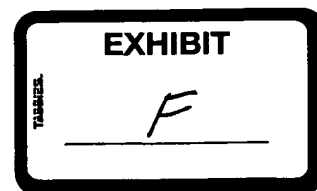
For "Guidelines For Examination Of Applications For Compliance With The Utility Requirement of 35 U.S.C. 101," see MPEP § 2107.

For "General Principles Governing Utility Rejections," see MPEP § 2107.01.

For a discussion of the utility requirement under 35 U.S.C. 112, first paragraph, in drug cases, see MPEP § 2107.03 and § 2164.06(a).

For "Procedural Considerations Related to Rejections for Lack of Utility," see MPEP § 2107.02.

For "Special Considerations for Asserted Therapeutic or Pharmacological Utilities," see MPEP § 2107.03.





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EXHIBIT

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RESPONSE TO REQUEST FOR CORRECTED FILING RECEIPT**Claims, Fees, and Inventors**

In response to your request for a corrected Filing Receipt, the Office is unable to comply with the request because:

- ☐ The total number of claims appearing on the Filing Receipt does not include multiple dependent claims. The total fee appearing on the Filing Receipt includes the cost of multiple dependent claims that were present at the time the application was filed.
- ☐ The filing fee is correct. It may include additional claims fees and/or the surcharge under 37 CFR 1.16(e) for filing an oath/declaration or basic filing fee after the application filing date; or it may not reflect fees refunded to the applicant that were paid by mistake.
- ☐ The number of claims reflected on the filing receipt is correct. Upon review of the claims, it was found that there was a miscalculation by the applicant. This may be due to improperly presented multiple dependent claims, typographical error, misnumbering of the claims, or other oversight. An amendment may be necessary to correct the problem.
- ☐ The filing fee reflected on the filing receipt is correct. Applicant may have miscalculated the fees due.
- ☐ Applicant calculated fees as other than small entity; however, applicant asserted small entity status in the application. Therefore, fees were applied as small entity and the remainder was refunded to the applicant.
- ☐ The difference between the fees paid and the fees due was refunded to the applicant and will not be shown on the filing receipt.
- ☐ The inventor information may be truncated if the family name consists of more than 50 characters (letters and spaces combined) and if the given name consists of more than 50 characters (letters and spaces combined).
- ☐ The inventor's residence allows for up to 40 characters (letters and spaces combined).
- ☐ The inventor's residence will only include the city and state for U.S. residences or city and country for residences outside the U.S. (See MPEP 605.02).
- ☐ A petition to correct the inventorship is needed to make this change. See 37 CFR 1.48. For non-provisional applications, the petition should be directed to the Director of the examining group assigned to your application.

- ☐ Changes made after submission of an executed declaration to the inventor information other than correction of typographical errors must be submitted in the form of a substitute declaration. Change of inventorship requires a petition under 37 CFR 1.48.
- ☐ The number of drawings shown on the filing receipt reflects the number of drawing sheets submitted and is not necessarily equal to the number of figures submitted.
- ☐ The correspondence address was captured as directed by applicant on filing. If you wish correspondence to be directed otherwise, please submit a request for a change of address.
- ☐ The docket number allows a maximum of 25 characters.
- ☐ The person signing on behalf of the deceased inventor is reflected on the Filing Receipt as the legal representative.
- ☐ The filing date of a parent application cannot be changed by this request. A petition to correct the filing date in the parent application is required.

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